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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,020	09/28/2001	Ralph Michael Fay	7109	4642

7590

10/06/2003

JOHNS MANVILLE INTERNATIONAL, INC.
Legal Department
P.O. Box 5108
Denver, CO 80217

EXAMINER

PRATT, CHRISTOPHER C

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/966,020	FAY, RALPH MICHAEL	
	Examiner	Art Unit	
	Christopher C Pratt	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 39-46 and 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38, 47-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Applicant's election without traverse of group I, claims 1-38 and 47-48, made 7/30/03, is acknowledged. The examiner notes that claim 47 is dependant from a nonelected process claim. The examiner recommends changing the dependency of this claim to an elected invention or amending product claim 47 to incorporate the limitations of the nonelected claims from which it depends.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-38 and 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isoda et al (5298321) in view of Haines et al (5824973).

Isoda is concerned with the creation of a resilient, polymeric fiber nonwoven blanket used in vehicles (col. 1, lines 10) for sound insulation (col. 19, lines 5-6). The blanket having a thickness of about .5 inches or greater (col. 15, lines 20-21) and a density between 1-3 pcf (abstract). The blanket having applicant's claimed percentage of polymeric, polyester staple fibers (col. 3, lines 30-40. col. 4, lines 42-44, and col. 6, lines 58-59). The blanket further comprising applicant's claimed percentage of polyester sheath/core lofting and bonding fibers (col. 4, lines 48-55). The fibers of the blanket have applicant's claimed denier and length (col. 6, lines 44-47 and col. 4, lines 42-44). Isoda generally teaches the use of a surface layer (col. 12, lines 8-9), but fails

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to teach a surface layer which is less permeable than the blanket and provides for noise reduction.

Haines is concerned with the creation of a resilient, polymeric fiber nonwoven blanket (col. 3, line 25) used in vehicles for sound insulation (col. 1, lines 23-28). Haines teaches supplementing the nonwoven blanket with a surface layer having reduced permeability, which can increase sound absorption (abstract). Haines teaches the surface layer to be an acrylic coating (col. 7, lines 22-24). It would have been obvious to a person having ordinary skill in the art to utilize the surface layer taught by Haines in the blanket of Isoda. Such a combination would have been motivated by the desire to improve the sound insulation properties of Isoda's blanket and increase its functional ability in a vehicle.

With respect to applicant's claimed fire resistance property, it is the examiner's position that the laminate created by the combination of Isoda and Haines inherently possess the same property. Isoda does not measure fire resistance with the same test used by applicant; however, Isoda teaches that the blanket is heat and fire resistant (col. 3, lines 37-40). Isoda also teaches that the fibers can include flame retardants (col. 6, lines 55) and that flame retardant polyester fibers can be used (col. 8, lines 25-27 and 51-57). Isoda further requires that the blanket conform to automotive flame retardant standards (col. 8, lines 45-47). The examiner also notes that the combination of Isoda and Haines utilizes the same polymeric materials as claimed by applicant and the same acrylic coating. Therefore, based on the teachings of Isoda and the

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similarities between the two inventions, the skilled artisan would expect the combination set forth above to possess applicant's claimed fire resistance property.

Isoda's blanket has applicant's claimed porosity. Applicant measures porosity in Mks Rayls. Haines teaches an equation to calculate Mks Rayls using density, fiber diameter, and thickness (col. 5, lines 24-29). Isoda utilizes the same density, fiber diameter, and thickness as applicant. Therefore, the resulting porosity would be equivalent to applicant's claimed porosity.

The blanket of Isoda recovers to its original thickness after compression (col. 7, lines 38-39, col. 16, lines 21-28, and table 4).

Haines does not seem to specify the weight of the coating; however, Haines teaches that the amount of coating affects the sound absorption properties of the laminate. It would have been obvious to a person having ordinary skill in the art to vary the weight of the coating to about 8-20 g/sf. Such a modification would have been motivated by the desire to optimize the value of acoustic resistance (col. 4, lines 59-63).

With respect to claim 5, it would have been obvious to a person having ordinary skill in the art to utilize multiple layers of acrylic coating in order to increase the thickness of the coating. Such a modification would have been motivated by the desire to optimize acoustic resistance.

With respect to claim 7, Haines teaches thermally bonding the coating to the blanket (col. 8, line 1).

With respect to claim 47, acrylic coatings are inherently water impermeable.


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Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read 'C. Pratt', with a large, stylized flourish extending from the end of the signature.

Christopher C. Pratt
September 29, 2003